

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

WILENTZ, GOLDMAN & SPITZER, P.A.

90 Woodbridge Center Drive
Suite 900, Box 10
Woodbridge, New Jersey 07095-0958
DAVID H. STEIN, ESQ.
Telephone: (732) 636-8000
Attorneys for Victoria Foster

In re:

BED BATH & BEYOND INC., *et al.*,

Debtors.¹

Chapter 11

Case No. 23-13359 (VFP)

(Jointly Administered)

Hearing Date: November 7, 2023
at 10:00 a.m.

**NOTICE OF MOTION FOR AN ORDER MODIFYING THE AUTOMATIC
STAY AND PLAN INJUNCTION TO ALLOW MOVANT TO CONTINUE
PENDING LITIGATION AGAINST THE DEBTOR, TO RECOVER SOLELY
AGAINST DEBTOR'S INSURER, WAIVING THE PROVISIONS OF FED. R.
BANKR. P. 4001 (a) (3) AND FOR RELATED RELIEF**

To: All Parties on the Service List

PLEASE TAKE NOTICE that on November 7, 2023, at 10:00 a.m., or as soon thereafter as counsel may be heard, Victoria Foster (the "Movant"), by and through her counsel, Wilentz, Goldman & Spitzer, P.A., shall move before the Honorable Vincent F. Papalia, United States Bankruptcy Court for the District of New Jersey, MLK Jr. Federal Building and United States Courthouse, 50 Walnut Street, 3rd Floor, Newark, New Jersey 07102, for entry of an order

¹ The last four digits of Debtor Bed Bath & Beyond Inc.'s tax identification number are 0488. A complete list of the Debtors in these Chapter 11 Cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' claims and noticing agent at <https://restructuring.ra.kroll.com/bbby>. The location of Debtor Bed Bath & Beyond Inc.'s principal place of business and the Debtors' service address in these Chapter 11 Cases is 650 Liberty Avenue, Union, New Jersey 07083.

modifying the automatic stay pursuant to 11 U.S.C. §§ 362 (d)(1) and (d)(2) and the plan injunction to permit Movant to continue litigation against the Debtor pending in the Superior Court of New Jersey and to recover solely against Debtor's insurer, waiving the provisions of Fed. R. Bankr. P. 4001 (a)(3) and for related relief (the "Motion").

PLEASE TAKE FURTHER NOTICE that in support of the within Motion, the Movant shall rely upon the Certification of Frank Cesarone, the Memorandum of Law submitted herewith, all supporting papers and the record of the instant proceedings, together with oral argument, if required, and such other testimony as the Court shall require or allow. A proposed form of Order is also submitted herewith.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the relief requested must be made in writing and in the form prescribed by the Federal Rules of Bankruptcy Procedure and the District of New Jersey Local Bankruptcy Rules, and must be filed with this Court and served upon the attorneys for the Movant, Wilentz, Goldman & Spitzer, 90 Woodbridge Center Drive, Woodbridge, New Jersey 07095 (**Attn: David H. Stein, Esq.**) so as to be received within the time required by the Rules of Court.

PLEASE TAKE FURTHER NOTICE that, in the event that timely objections are not filed with the Court and served upon the undersigned attorneys as provided for in District of New Jersey Local Bankruptcy Rule 9013-2(a)(2), the Motion shall be deemed uncontested and the Court may, in its discretion, grant the requested relief.

PLEASE TAKE FURTHER NOTICE that, in accordance with District of New Jersey Local Bankruptcy Rule 9013-3, unless timely objections are filed and served upon the appropriate parties, the Movant submits to disposition on the papers.

Respectfully submitted,

WILENTZ, GOLDMAN & SPITZER, P.A.
Attorneys for Victoria Foster

By: /s/ David H. Stein
DAVID H. STEIN, ESQ.

Dated: October 13, 2023

Service List

Joshua Sussberg, Esq.
Derek I. Hunter, Esq.
Emily E. Geier, Esq.
Kirkland & Ellis LLP
601 Lexington Avenue
New York, NY 10022
Attorneys for Debtors

Michael D. Sirota, Esq.
Warren A. Usatine, Esq.
Felice R. Yudkin, Esq.
Cole Schotz, P.C.
25 Main Street
Hackensack, NJ 07602
Co-counsel for Debtors

Fran B. Steele, Esq.
U.S. Department of Justice
Office of the US Trustee
One Newark Center, Suite 2100
Newark, NJ 07102

Bradford J. Sandler, Esq.
Pachulski, Stang, Ziehl & Jones, LLP
919 N. Market Street, 17th Floor
Wilmington, DE 19801
*Counsel to the Official Committee of
Unsecured Creditors*